

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24035 of 2019

Arising Out of PS. Case No.-26 Year-2019 Thana- MAJHAULIA District- West Champaran

1. AHSANULLAH @ DHEHA Son of Ali Imam Miyan Resident of Village - Badaiya Tola, Mahanwa, P.S.- Majhauriya, District - West Champaran
2. Moajjamail @ Md. Ajjam Ali Son of Ali Imam Miyan Resident of Village - Badaiya Tola, Mahanwa, P.S.- Majhauriya, District - West Champaran
3. Mossaraf Ali Son of Ali Imam Miyan Resident of Village - Badaiya Tola, Mahanwa, P.S.- Majhauriya, District - West Champaran
4. Mokarram Ali Son of Ali Imam Miyan Resident of Village - Badaiya Tola, Mahanwa, P.S.- Majhauriya, District - West Champaran
5. Sehra Khatoon @ Sehla Khatoon Wife of Mokarram Ali Resident of Village - Badaiya Tola, Mahanwa, P.S.- Majhauriya, District - West Champaran
6. Asarful Haque @ Asarful Ali Son of Noornehal Ahmed Resident of Village - Badaiya Tola, Mahanwa, P.S.- Majhauriya, District - West Champaran
7. Samasujoha Son of Manir Mian Resident of Village - Badaiya Tola, Mahanwa, P.S.- Majhauriya, District - West Champaran
8. Khushnehal Ahmad Son of Ali Imam Miyan Resident of Village - Badaiya Tola, Mahanwa, P.S.- Majhauriya, District - West Champaran
9. Bismillah Khatoon Wife of Ali Imam @ Ali Imam Miyan Resident of Village - Badaiya Tola, Mahanwa, P.S.- Majhauriya, District - West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar No 7, Advocate
For the Opposite Party/s : Mr.Vinod Shanker Modi, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 18-07-2019 Heard learned counsel for the petitioners and learned
APP for the State as well as learned counsel for the informant.

The petitioners in the present case are seeking
anticipatory bail in connection with Majhauria P.S. Case No. 26
of 2019 registered for the offences punishable under Sections



147, 148, 149, 302 of the Indian Penal Code and Section 27 of the Arms Act.

Petitioners in the present case and the informant's side are co-sharers. It appears from the first information report that they had certain disputes over constructing a boundary wall on a piece of land. It is because of the said land dispute, it is alleged that all these petitioners had assembled and petitioners no. 1 and 2 being lashed with Katta and Rifle respectively entered in the house of the informant, they pulled out his brother outside the house and then fired from their firearms which caused death of the brother of the informant.

So far as petitioners no. 3 to 9 are concerned, the only allegation against them is that they were members of the mob. They include all the family members of Alim Iamam the co-sharers.

Learned counsel for the petitioners submits that though there are allegations that petitioners no. 1 and 2 both had caused firearm injury to the deceased but the post mortem report has revealed only one firearm injury on the body of the deceased. He has further submitted that so far as petitioners no. 3 to 9 are concerned, there is absolutely no allegation of their active participation in the alleged occurrence as they have not



assaulted the informant or his brother. It is further submitted that in order to falsely implicate the entire family even 16 year old and 20 year old family members and lady family members have been implicated.

Learned counsel for the State as also learned counsel for the informant have opposed the prayer of anticipatory bail of the petitioners. It is submitted that these petitioners had assembled and out of them petitioners no. 1 and 2 had indulged in firing.

Having heard learned counsel for the petitioners, the informant and the State, this Court is of the considered opinion at this stage that so far as petitioners no. 1 and 2 are concerned, since there are allegations that they had entered in the house, had pulled out the deceased and then fired, this Court would not be willing to extend the privilege of anticipatory bail. Prayer for anticipatory bail on behalf of petitioners no. 1 and 2 is hereby refused.

In case they surrender and pray for regular bail within a period of four weeks from today, their prayer for regular bail shall be considered on the basis of the materials available on the record without being prejudiced to the order of this Court.

So far as petitioners no. 3 to 9 are concerned, as has



been submitted before this Court and not contested on this issue that against them there is no allegation of causing any assault either on the informant or the deceased, this Court is willing to extend the benefit of anticipatory bail to them. Let on their arrest or surrender petitioners no. 3 to 9 within a period of four weeks from today in connection with Majhaulia P.S. Case No. 26 of 2019 shall be enlarged on bail on furnishing of bail bonds of Rs. 15,000/- (fifteen thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Bettiha, West Champaran, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Rajeev Ranjan Prasad, J)

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